

CITY OF WEST LAFAYETTE
COMMON COUNCIL
MINUTES
July 6, 2010
[moved from July 5, 2010, due to City holiday]

The Common Council of the City of West Lafayette, Indiana, met in the Council Chambers at City Hall on July 6, 2010, at the hour of 6:30 p.m.

Mayor Dennis called the meeting to order and presided.

The Pledge of Allegiance was repeated.

Present: Bunder, Burch, Hoggatt, Hunt, Keen, and Thomas.

Absent: Dietrich.

Also present were City Attorney Burns, Clerk-Treasurer Rhodes, City Engineer Buck, Police Chief Dombkowski, Street Commissioner Downey, Fire Chief Drew, Human Resources Director Foster, WWTU Director Henderson, Parks Superintendent Payne, and Director of Development Poole.

MINUTES

Councilor Keen moved for acceptance of the minutes of the June 3, 2010, Pre-Council Meeting, and the June 7, 2010, Common Council Meeting. Councilor Burch seconded the motion, and the motion passed *viva voce*.

COMMITTEE STANDING REPORTS

STREET, SANITATION, AND WASTEWATER TREATMENT UTILITY

No report.

PUBLIC SAFETY AND ORDINANCE

Councilor Keen presented this report, which will be on file in the Clerk-Treasurer's Office.

PURDUE RELATIONS

No report.

PARKS AND RECREATION

Councilor Hunt presented this report, which will be on file in the Clerk-Treasurer's Office.

ECONOMIC DEVELOPMENT

Councilor Thomas presented this report, which will be on file in the Clerk-Treasurer's Office.

PERSONNEL

Councilor Burch presented this report, which will be on file in the Clerk-Treasurer's Office.

BUDGET AND FINANCE

In Councilor Dietrich's absence, Clerk-Treasurer Rhodes reported that there have been four Council work sessions to hear department presentations on their 2011 budget requests. The first review of the compiled budget will be at the Council work session scheduled for July 13 at

4:30 p.m. The budget will be filed on July 22, Agenda Day, for first reading at the August Council meeting.

REPORT OF APC REPRESENTATIVE

No report.

SPECIAL REPORTS

Report of the Council Review and Action Taken on the Tax Abatement for Quadraspec at the July 1 Pre-Council Meeting – Director of Development Poole

Director of Development Poole reported that at the July 1 Pre-Council meeting, there was a hearing on the tax abatement for Quadraspec. After review of the Statement of Benefits, the company was found to be in non-compliance. At the June Council meeting, the Council confirmed the non-compliance and determined to hold a hearing at the July Pre-Council meeting. At that meeting, Quadraspec president Steve Plump and financial representative Joe Chutka requested that their tax abatement be continued. The reason Quadraspec was found in non-compliance is that the company had sold a large portion of the company to Antech Diagnostics. The tax abatement for the research and development equipment was no longer relevant, as only a small portion of the equipment remained. The Council voted to continue the tax abatement for Quadraspec, but adjusting it to reflect research and development equipment valued at approximately \$300,000, instead of the \$1.3 million that was on the original request. This is the second year of the seven-year abatement. He thanked the Council for their approval of this continuation, as it is an important economic development matter. In response to a question from Mayor Dennis, Mr. Poole noted that, over the remaining five years, the revised abatement is worth about \$10,000.

Update on City's Marketing Efforts - Director of Development Poole

Director of Development Poole outlined marketing efforts to date and opportunities for the future to attract new businesses to the City.

PUBLIC RELATIONS

West Lafayette Community Beautification Award

Mayor Dennis presented the West Lafayette Beautification Award to the Master Gardeners of Tippecanoe County, for the work that the organization has done at the Butterfly Garden at the Celery Bog. He showed photographs of various aspects of the garden. The Master Gardeners were represented by Judy Cox, Carol King, Geri Freidman, and Lynn Layden. Ms. Layden commented that the Master Gardeners are grateful for the partnership with the City, particularly the Parks Department, and appreciate the opportunity to enhance the City.

Police Officer of the Quarter Award

Police Chief Dombkowski and Police Merit Commission President Leverenz presented the Officer of the Quarter Award to Officer Adam Miller.

FINANCIAL REPORT

Clerk-Treasurer Rhodes remarked that the presentation of departmental budget requests is complete. The budget is now being worked, based on the June 30 close of financial records. The first draft will be complete on July 13, so that the budget ordinance can be filed on July 22, Agenda Day. The State has provided updates on several intergovernmental revenues. Revenue from Gas Tax and Alcohol Gallonage is stable, while Cigarette Tax is down over 6%. Local Option Income Tax is also forecast to be down about 15% to 20%, a lagging indicator of economic activity. All those translate into a loss of about \$450,000 to \$600,000 for City operations. Income tax supports City operations. Property taxes will continue to diminish

because of Circuit Breaker. The \$472,000 reduction in 2010 likely will grow in 2011, so the cumulative effect of the reduction in tax resources from income tax and property tax that supports City operations will decrease by \$1.5 million in 2011. That is about 14% of the General Fund budget. It is a material and very significant effect. The recurring theme is that there is a fundamental shift underway in the funding of municipal government. Local decisions will affect what government does and what government pays for, what is kept and what is changed. Effective July 1, a change is in effect to public funds statutes on the allocation of investments. Deposits are insured up to FDIC limits, and the State's Public Deposit Insurance Fund covers the excess. The change arose in part from the situation from the situation in which a depository in the State was on the verge of failing prior to its sale. During this crisis, public funds continued to flow into that institution, because it was covered by the Public Deposit Insurance Fund. The amount of assets from that single institution that were public assets exceeded the amount in the Public Deposit Insurance Fund. It was a very serious situation. The response to that was legislation in the last session requiring that depositories pledge collateral government securities equal to 100% of the depository's public funds holdings, or they must participate in assessments to strengthen the Public Deposit Insurance Fund. Other investment options have also been made available. The City can purchase university bonds such as Purdue University bonds, for example. Clerk-Treasurer Rhodes mentioned that she was anticipating that the Council's Budget and Finance Committee might wish to review the details of the legislation regarding public funds statutes, which were effective July 1, in the coming months, as administration rules unfold. All of the City's deposits comply with the Public Funds Law.

LEGAL REPORT

City Attorney Burns noted that the June legal report is on file. There were no questions about the report.

UNFINISHED BUSINESS: None.

NEW BUSINESS

Resolution No. 08-10 A Resolution To Authorize The Submission Of A State Revolving Fund Loan Application To The Indiana Finance Authority (Submitted by Mayor John Dennis)

Mayor Dennis announced that he had removed Resolution No. 08-10 from the agenda, as it appears that it is not needed at this time. No action is required.

Ordinance No. 14-10 An Ordinance Providing For Payment Of Fire Hydrant Rental Costs By Indiana American Water Company Ratepayers (Sponsored by Mayor John Dennis)

Mayor Dennis read Ordinance No. 14-10 by title.

Councilor Keen moved that it be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Mayor Dennis remarked that, thanks to the *Journal and Courier*, everyone should have been briefed on what this ordinance is. In West Lafayette, the water company is not municipally owned. The City, like residents, is a customer of Indiana-American Water. There has been a rate increase on the water, and a 138% increase to the City for hydrant fees. That equates to approximately \$262,000 per year. After Clerk-Treasurer Rhodes' remarks, this increase in hydrant fees would be a significant impact on the City's finances. At this time, with revenue streams shrinking, the City will have difficulty dealing with this increase, without significant, deep cuts to services and to staff. He mentioned that a question raised by some is whether the City

is passing off another burden on the taxpayers. In this situation, this particular fee is going to ratepayers, not specifically taxpayers. The difference between ratepayers and taxpayers is that a ratepayer is any entity that has service with Indiana-American Water within the City of West Lafayette. This includes residents, business owners, faith-based organizations, private entities—anyone that gets water service to their structure. That this is an example of fundamental fairness, where everyone is in, and everyone pays. Mayor Dennis stated that the City tries to do the best for its citizens, what is right and what the City is capable of doing. One of the hallmarks of the City of West Lafayette is that it has always provided quality services. He advised that it is his intention to continue to do so. That is why the increase in fees for the hydrant rentals would be passed along to the ratepayers.

Councilor Burch asked if the fee just the difference that the City cannot afford, or whether it is the total. Mayor Dennis answered that it is the total. For clarification, he stated that the average meter size of a resident is 5/8" meter, which will equate to an additional \$2.37 per month

Councilor Hunt reported that she received a call late today from a local resident who is knowledgeable about this matter. The caller raised some questions, including whether all cities pay the same rate. Mayor Dennis asked if the caller were referring to the single tariff. Councilor Hunt indicated that was not the phrase the caller used. The phrase Councilor Hunt reported that the caller used was, "We don't have any skin in the game." Mayor Dennis remarked that, when you do not own the water company, that is true. Mayor Dennis observed that, what Indiana-American Water wanted, was a single tariff for the State of Indiana. That was not successful, and the company's objective now is to seek a two-tiered tariff in areas where they own the water utility. The City of Lafayette owns its water utility. City Attorney Burns confirmed Indiana-American Water's intent is to have a two-tiered system.

Councilor Hunt suggested that it might be wise to wait until the tariff is decided. City Attorney Burns replied that the information is available, and can be obtained and analyzed. The tariff has been passed. The Indiana Utility Regulatory Commission (IURC), a State body that approves tariffs, held a hearing, at which the level of rates was determined. He offered that the point the caller to Councilor Hunt was making was that, if the City no longer has to pay the water rates for the hydrants for the citizens, then the City will not be as motivated to try and fight back when it comes to raise time. Mr. Burns said that his [Mr. Burns'] response to that is to be a utility is a very good thing; players of Monopoly [the board game] know that. It is an interesting concept, but the IURC looks at what the utility's costs are and then gives them a rate of return. It's why it's a monopoly. It's not like a private business where you have to make your profit. They are given a profit. It's a difficult thing to keep a lid on completely. The "skin" the City will continue to have in the game is that it [the City] buys a lot of water. Everybody in the City, including the City of West Lafayette Governmental, is paying under this proposal. Councilor Hunt said that she did tell the caller that. Mr. Burns stated that the City would continue to pay rates, just as all ratepayers will, depending on usage of water.

Councilor Hoggatt moved to table Ordinance No. 14-10 to the Council's September meeting. Councilor Burch seconded the motion.

Councilor Hoggatt explained the reason for his motion: It is directly affecting the General Fund; the budget process is just completed, and a presentation of the budget that will be heard next month. He reported that it would be of benefit to the Council to hear the budget presentation, digest that, and look at this particular thing in the context of the entire General Fund budget and how it fits in. He stated that he has some other problems with the language of the ordinance, one of which is that the main benefit of City services is primarily public safety services to the

COMMON COUNCIL MEETING MINUTES, JULY 6, 2010, CONTINUED

public, and that's the general purpose of the General Fund. A fire hydrant is a public service and a public safety service to the City and he has difficulty pulling a public service to the City without analyzing the budget to see if there is "wobble room" to maintain the services to the citizens. He felt that it would help everyone if the ordinance were deferred. Mayor Dennis mentioned that the ordinance would be effective January 1, 2011, if it passes.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote on the motion to table Ordinance No. 14-10 until the September Council meeting:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Bunder		Dietrich
Burch		
Hoggatt		
Hunt		
Keen		
Thomas		

Clerk-Treasurer Rhodes stated that the vote was 6-0.

Mayor Dennis announced that Ordinance No. 14-10 is tabled until the September 2010.

City Attorney Burns proposed that, if the Councilors have questions, those should be given to him or to the Mayor. Mr. Burns stated that he would give the link to the actual tariff and the orders from IURC. Specific questions that may take comparative analysis or research should allow enough time to get the information. Mayor Dennis added that the contacts at Indiana-American Water could assist with answers. Councilor Hunt asked if the links would be sent to the Council. Mr. Burns answered that he would send those links, and then more particular questions can be sent to him or to the Mayor.

Resolution No. 07-10 An Resolution Appropriating Housing Rehabilitation Loan Funds On Hand Resulting From Repayments Of Loans Previously Made By The West Lafayette Department of Development (Submitted by Department of Development)

Mayor Dennis read Resolution No. 07-10 by title.

Councilor Keen moved that it be passed on first reading, and that the vote be by roll call. The motion was seconded by Councilor Burch.

Director of Development Poole explained that, through CDBG funds, the City may provide loans for homebuyer assistance/gap financing. In 2002, the City lent \$20,000 for purchase of the property at 469 Maple Street, using CDBG funds for gap financing. That house has been sold, and the approximately \$17,500 that was due to the City has been repaid. Now it needs to be appropriated back to CDBG funds.

There was no further discussion.

Clerk-Treasurer Rhodes called the roll call vote:

<u>AYE</u>	<u>NAY</u>	<u>ABSENT</u>
Bunder		Dietrich
Burch		
Hoggatt		
Hunt		
Keen		
Thomas		

Clerk-Treasurer Rhodes stated that the vote was 6-0.

Mayor Dennis announced that Resolution No. 07-10 passed on first and only reading.

COMMUNICATIONS: None.

CITIZEN COMMENTS

► Mayor Dennis welcomed Ms. Jan Myers, who has been on an extended vacation. Ms. Myers [1909 Indian Trail Drive] said that, when she and her husband return from traveling, she is reminded, on the *Journal and Courier* editorial page of the First Amendment. When she comes into City Hall, this one or others, she is reminded of the right of people to peacefully assemble, as well as to petition government. Having been in a lot of world where none of it is allowed, she said "Thank you" to the Fourth of July. She also expressed thanks to the Police Department and the Fire Department, as well as Councilors Burch and Thomas, on behalf of the Wabash Shores Neighborhood for their participation in the children's Fourth of July Parade in the neighborhood. The parents were very impressed and pleased by the Police and Fire representatives and their enthusiasm, and asked Ms. Myers to extend that gratitude. Ms. Myers added that she gets West Lafayette news by internet when she is gone. She thanked the Mayor for vetoing the trash bill several months ago. Her concern was that the public was not allowed to speak about it at the public meetings before she left town. Had the committee followed what is going on with similar ordinances in other municipalities, they would have found that these ordinances have only gotten the cities into trouble. The reason is that they violate ADA regulations, and it is the senior citizens who have brought the complaints and caused the cities financial problems. She raised this now as a public issue. Whenever the topic is to come up again, she will discuss the situations in other cities regarding their ordinances. She said she was sorry that she was not able to make the information known. She thanked the Mayor for vetoing it, even if he was not aware of the effect of saving citizens money. Ms. Myers said that, with her financial background, she wanted to make a few budget observations. She commented on the crosswalks that are newly in place at Salisbury and Lindberg, and Cumberland and US52. These crosswalks, in her view, do not meet ADA guidelines for the visually handicapped, and she asked where the City will find the money to keep snow off those, since they are not on private property and will require snow removal. There have been various findings about the crosswalks, and one item that cities have found helpful is to avoid use of dark colors, like the "rusty iron pads" as ramps. They can confuse visually impaired people, who think they are puddles and use the grass. Many countries are far ahead of the U.S. on accessibility. In New Zealand, bright yellow is used for ramp pads, curb edgings, etc. She has photographs of these, if anyone wishes to see them. Her question is why money is being spent on crosswalks, when guidelines are not being followed. Ms. Myers expressed concern about spending money to replace current sidewalks, rather than adding sidewalks where they do not exist. She reported that she participated in the New Chauncey Garden Walk recently, and found various sidewalks being replaced, yet the valuable link between the parks and other commuting distances, such as

along Lindberg between Salisbury and Northwestern, has not been done for years. There is no pedestrian aid in that area. She noted that some businesses and some property owners do not keep the sidewalks accessible. There are beautiful hedges by McDonald's on US 52, but the hedge grows over more than half the sidewalk, so it is difficult to use. She is curious about why the City stopped INDOT from completing the pedestrian crossing at Lindberg and Northwestern, at the Shell corner. About two years ago, the State was ready to complete this work, but INDOT reported that the City stopped them from completing the fourth part of the crosswalk. Again, that walk connects to the bicycle trail that goes to the Celery Bog, etc. She has not received an answer. She also questioned why the Parks Department put three rails on fences, which increases the cost 50% compared to two-rail fences that are used by Purdue and others. At three rails, the views of young children and those in wheelchairs or other conveyances are blocked. She raised these issues, and reminded those in attendance that the First Amendment is a good one, even if she does not come every month to make her comments. She thanked those in attendance.

► Ms. Karen O'Farrell [2237 Indian Trail Drive] stated that she is involved in the Wabash Shores Neighborhood Fourth of July Parade. She thanked the City, the Mayor's administrative assistant who kept the web page updated, the Board of Works who approved the street closing, the Street Department for delivering and picking up the barricades, the Council representatives, the Fire Department for allowing the fire truck to participate, and Janet Shepherd and her D.A.R.E. vehicle. It was a wonderful community effort, small town Fourth of July celebration. She expressed hope that Director of Development Poole keeps these small features in mind as he markets the City as a bigger, more metropolitan type community.

► Ms. Jill Schuler, a former Purdue student, read a statement:

Neither Jerry and Patti Weida nor any employee of Weida Apartments was aware of our intent or our intent to over-occupancy until sued by the City of West Lafayette. We apologize to the Weidas and Weida Apartments for involving them in a lawsuit with the City as a result of our deviant behavior. We ask the Council to make changes to the ordinance holding occupants solely responsible for over-occupancy such as ours. We also ask that the Council make changes to the ordinance that gives the over-occupants a warning and an opportunity to correct the violation. Thanks.

ADJOURNMENT

There being no further business at this time, Councilor Burch moved for adjournment, and Mayor Dennis adjourned the meeting, the time being 7:23 p.m.